

103 KAR 28:010. Admissions.

RELATES TO: KRS 138.480, 139.010, 139.200, 139.260, 139.470, 139.480, 139.482, 139.495, 139.498, 229.031

STATUTORY AUTHORITY: KRS 131.130(1)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 131.130(1) authorizes the Department of Revenue to promulgate administrative regulations necessary for the administration and enforcement of all tax laws in Kentucky. This administrative regulation establishes sales and use tax requirements for sale of admissions.

Section 1. Definition. "Admissions" is defined by KRS 139.010(1).

Section 2. Excluded Admissions. The admissions listed in this section are specifically excluded from sales tax by statute:

- (1) Admissions to race tracks upon which tax is levied under KRS 138.480;
- (2) Admission fees paid to enter or participate in a fishing tournament or for the use of a boat ramp as provided by KRS 139.010(1)(b);
- (3) Admissions to historical sites defined by KRS 139.482(1);
- (4) Admissions charged by nonprofit educational, charitable, or religious institutions exempt under KRS 139.495(2)(a)5;
- (5) Admissions charged by nonprofit civic, governmental, or other nonprofit organizations exempt under KRS 139.498(1)(a); and
- (6) Admissions to unarmed combat shows such as boxing and wrestling shows taxed under KRS 229.031(1).

Section 3. Nontaxable Fees. (1)(a) Fees for instruction (tuition, registration fees, or ticket charges paid to attend instructional seminars, conferences, or workshops) shall not be considered the taxable sale of admissions if the primary intent of the program is for education rather than entertainment. Separate charges for meals, books, recordings, or other materials sold at or in conjunction with instructional seminars, conferences, or workshops shall be subject to sales and use tax unless an applicable exemption applies.

(b) Examples of nontaxable instructional seminars, conferences, or workshops include:

1. Art classes, including painting and pottery;
2. Certified training programs for lifeguard certification classes;
3. Classes providing continuing education credits;
4. Classes to obtain a professional designation, such as a Certified Public Accountant, Registered Nurse, or Registered Land Surveyor;
5. Dance lessons;
6. Instructor-led recreational training, such as swimming classes, fitness classes, golf lessons, and personal trainer exercise instruction;
7. Music lessons;
8. Summer resident camps and day camps; or
9. Team memberships fees that include athletic training skills for youth.

(2) Other non-taxable fees include:

- (a) Day care and child care facility fees;
- (b) Driver's license, hunting license, and fishing license fees;
- (c) General facility rentals, such as conference rooms, ballrooms, and temporary storage facilities; or
- (d) Professional and fraternal order membership fees.

Section 4. Taxable Admissions. The list in this section shall serve as examples of admissions charges that are subject to the tax either as a payment for the right of entrance, payment for the privilege of using facilities, or payment to participate in an event or activity. These same charges made by an Internal Revenue Code 501(c)(3) charitable, religious, or educational organization, nonprofit civic organization, governmental organization, and all other nonprofit organizations are exempt under the provisions of KRS 139.495 and KRS 139.498:

- (1) Amusement park entrance and ride charges;
- (2) Art exhibits;
- (3) Auditoriums where lectures and concerts are given for entertainment purposes;
- (4) Bars with cover charges;
- (5) Baseball parks;
- (6) Bowling center rentals and fees to participate in games;
- (7) Box seats;
- (8) Dance halls;
- (9) Disc golf courses;
- (10) Fitness and recreational sports centers;
- (11) Golf courses;
- (12) Gymnasiums;
- (13) Health spas;
- (14) Indoor and outdoor play spaces such as arcade games, ball pits, inflatables, obstacle courses, rides, slides, and other similar activities;
- (15) Locker rentals at recreational facilities;
- (16) Miniature golf fees;
- (17) Movie theatres;
- (18) Museums;
- (19) National park facilities that are operated under lease by a for-profit entity;
- (20) Night clubs;
- (21) Race tracks not taxed under KRS 138.480;
- (22) Simulcast facilities;
- (23) Shooting ranges and gun clubs;
- (24) Skating rink rentals and fees to participate in activities;
- (25) Skiing charges;
- (26) Sports league fees to participate in games;
- (27) Street fairs;
- (28) Swimming pool rentals and fees to participate in activities;
- (29) Tennis court rentals and fees to participate in activities;
- (30) Theaters; or
- (31) Weight training facilities.

Section 5. No Resale of Admissions. Sales of admissions are not eligible for the resale exemption according to the provisions of KRS 139.260.

Section 6. Ticketing. (1)(a) If the tax is included in the total price, a statement shall appear on the ticket to the effect that the sales tax is included in the price unless the tax is separately stated on a sign posted in a conspicuous place at the ticket window and all sales are made at the ticket window. For online sales, a prominent statement on the website may substitute for a statement on the ticket itself.

(b) If the tax is not included in the total price, a receipt shall be given showing that the sales

tax was charged and separately stated.

(2) Each admission shall be a separate sale.

(3) Complimentary passes provided by the person conducting the event are not subject to the tax.

(4) Separately stated event sponsorships and advertising that do not include admission to an event are not subject to the tax.

Section 7. Required Payments. Payments that are required as a prerequisite for admission, even if designated as a donation, shall be subject to tax.

Section 8. (1) This administrative regulation shall replace Revenue Circular 51C001-S6 and Revenue Policies 51P396 and 51P400.

(2) Revenue Circular 51C001-S6 and Revenue Policies 51P396 and 51P400 are hereby rescinded and shall be null, void, and unenforceable. (SU-57-2; 1 Ky.R. 467; eff. 3-12-1975; Am. 9 Ky.R. 1153; eff. 5-4-1983; 33 Ky.R. 2346; 3153; eff. 5-4-2007; TAm eff. 6-22-2016; 46 Ky.R. 578, 1089; eff. 11-1-2019.)